

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

IN RE:

**Lost Nation Brewing, LLC
254 Wilkins Street
Morrisville, VT 05661**

DECISION

The Liquor Control Board ("LCB") held proceedings in Montpelier, Vermont, on April 17, 2013, to consider the 2013 application of Lost Nation Brewing, LLC (hereinafter "Applicant"), 254 Wilkins St., Morrisville, VT 05661.

Applicant seeks a 2013 manufacturer's license for the manufacture of malt beverages. The Applicant was present by and through Allen Van Anda, the manager of the Applicant and its majority shareholder. The Applicant was not represented by an attorney. The Department of Liquor Control ("DLC") was present and represented by Assistant Attorney General Jacob A. Humbert.

FINDINGS OF FACT

1. The Applicant has submitted a 2013 manufacturer's license application for the manufacture of malt beverages. The application is dated March 22, 2013 under the signature of Allen Van Anda, its manager.
2. The LCB has jurisdiction to grant a manufacturer's license under 7 V.S.A. § 2(15).
3. As is the case with every application for a liquor license in this State, whether to distribute or to manufacture, the DLC proceeds with an investigation involving a background check of the principals of the applicant entity. That was done in this case, and because of what

was found by Investigator Martin Prevost of the DLC, the matter was set for hearing by this Board.

4. Sergeant Martin Prevost of the Licensing Division of the DLC did a routine background investigation of the Applicant's stockholders and directors, and discovered that James Griffith, the Applicant's chief brewer, with the title of Brew Master, and 9.9% shareholder, had a federal felony conviction in 2007 for the cultivation of marijuana, a federal misdemeanor conviction in 2007 for the possession of marijuana, and a misdemeanor DWI or DUI conviction in September of 2012. Based upon past decisions of the LCB, felony convictions of less than ten years old and misdemeanor convictions less than three years old need to be brought before the Board for hearing. (Taken from the testimony of Prevost).

5. At this point, the State rested.

6. Allen Van Anda is the manager of the Applicant and makes all business and financial decisions for the LLC. Van Anda is also a 60% shareholder.

7. The Applicant also has two more 9.9% shareholders who are shareholders for investment purposes only. Additionally, there is a 5% shareholder who helps the LLC with respect to its business development, its bookkeeping and the like.

8. One of the 9.9% shareholders is John Larkin, who contributed \$100,000.00 as a capital contribution. The other 9.9% shareholder is Peter Christie, who contributed an equal \$100,000.00 as a capital contribution. The capital contribution of Van Anda is \$105,000.00 which was borrowed from his mother who mortgaged her home to provide those funds.

9. The capital contribution of James Griffith is his skill in production at which he's an expert, in the opinion of Van Anda. Van Anda considers Griffith to have an uncanny ability to make things work when that is not readily apparent. A local community bank is funding

approximately 85% of the project and has a first mortgage on their real estate in Essex and on fixed assets. (Taken from the testimony of Van Anda).

10. James Patrick Griffith, who will be 40 years-old in September, was born in Virginia in 1972. In 1996 he moved to Vermont and worked in the production end of various businesses. He and Van Anda spent time working at Vermont Soy, where they got to know each other, and then when Van Anda was hired by the Trapp Family to start their brewery, he was hired by Van Anda to join him in that project.

11. Griffith has a partner, Jennifer Growe, with whom he has two daughters, one eight and one twelve years of age.

12. For several years, Griffith rented a house in Hyde Park where he cultivated marijuana, allegedly for his own use, and although the operation was basically secretive, he mistakenly told a friend who told someone else and it ultimately came to the attention of law enforcement. In 2007, he was convicted of the felony cultivation of marijuana for which he spent 30 days in prison and was then placed on probation, from which he has just been released. In conjunction with that conviction in 2007, he was convicted of the misdemeanor possession of marijuana and was just recently released from probation for both. Unfortunately he received a misdemeanor conviction of DWI in September 2012. This happened because he refused to take a breath test. He told the law enforcement officer that he had only one beer and was on his way home. The officer did not stop him for anything other than a non-functioning taillight when he noticed the smell of alcohol from Griffith. He did not realize that his refusal resulted in an automatic suspension of his license for DWI.

13. Griffith professed to have no intention of hereafter growing marijuana, and is further, keenly aware of what any future convictions for a violation of the law would possibly

have for his position with the Applicant. His job with the Applicant is best described as Brew Master. It is his responsibility to develop brew recipes and to see that those recipes produce a great beer.

14. It is his and Van Anda's intention to have a brew pub and a tasting facility at the Lost Nation Brewery, at which interested persons can stop to sample their product. They will be applying for a first and fourth-class liquor license for that purpose shortly. They intend to serve cheese and bread. Perhaps later they will hire a catering service or have a pop-up kitchen, so-to-speak, but they do not wish to operate a bar. The brew pub will be closed in the early evening as they do not wish to operate when local licensees are in operation.

15. Griffith identified Licensee's Exhibit 1 as five 8 x 10 photos showing the Lost Nation Brewery. Licensee's 1 was admitted without objection. (Taken from the testimony of Griffith).

16. At this point, the Licensee rested.

CONCLUSIONS

1. The Board by judicial notice of the DLC's record for the Applicant is cognizant of a 2013 application to manufacture malt beverages at Lost Nation Brewing, LLC, 254 Wilkins Street., Morrisville, VT 05661. The application states that the Applicant LLC bears the corporation federal ID number 45-4540 715 and that the Applicant has received a basic permit from the Federal Government bearing 13R-VT-21007. The business premise is a 10,000 square foot building divided into two 5,000 square foot businesses by a permanent wall and serviced by separate entrances. The premises are owned by Vermont Asbestos Group, 120 North Gate Avenue, Morrisville, VT 05661.

2. As the facts reveal, James Patrick Griffith the holder of 9.9% of the outstanding stock of the Applicant LLC was convicted in 2007 for the felony cultivation of marijuana and in conjunction therewith was convicted of misdemeanor possession of marijuana also in 2007.

After a prison sentence for the first conviction, Griffith was placed under probation from which he was recently released. However he was also convicted of a misdemeanor DWI in September, 2012 because he failed to understand that by refusing to take a breath test, a DWI conviction would follow.

3. It has been the concern of this Board and its predecessor boards throughout the history of the DLC that persons who have been convicted of crimes, be it felony or misdemeanor, before they can be granted liquor licensee, they need to prove to the Board that for a period of time there have been no further convictions under federal or state criminal statutes, or convictions under our motor vehicle statutes of a serious nature.

4. Since Griffith was just released from probation several months ago for the felony and misdemeanor convictions occurring in 2007, this issue is here being put to the test. To make matters worse, because of lack of information and poor judgment, in September, 2012, Griffith was convicted of a DUI violation. The Board is inclined to believe Griffith when he explained that the DUI incident resulted not from erratic behavior while he was driving but rather that he was stopped for a light infraction which then led to an inquiry about alcohol consumption. His refusal to take a breath test under those circumstances resulted in an automatic DUI conviction. This Board is less concerned with this DUI conviction than it is with respect to the marijuana convictions.

5. The Board is also inclined to believe however that Griffith can and does play a very important role in the Applicant LLC and that in meeting his responsibilities as a brew

master under the close supervision and guidance of his friend and work associate Van Anda, the people of Vermont may be best served by having Griffith gainfully employed in the applicant business under the oversight of Van Anda and under the conditions imposed by this Decision.

6. The Board will therefore grant the requested 2013 manufacturer's license to manufacture malt beverages as requested.

7. The Board is also aware that Applicant will in the very near future apply for a first and fourth class liquor license by which it can operate a brew pub at their Lost Nation Brewery. The Board will grant to the Applicant when properly applied for, a first and fourth class liquor license subject to the conditions set forth in the following Decision.

DECISION

The Liquor Control Board by unanimous decision grants to Lost Nation Brewing, LLC, a malt manufacturer's license for license year 2013. In addition, it hereby prospectively grants to Lost Nation Brewing, LLC, a first and fourth class liquor license if and when properly applied for, subject to the condition that for a period of three years from the granting of the first and fourth class liquor licenses, Griffith shall not during that time commit or be charged with and/or be convicted of a criminal offense. If during the three year period of time such a condition occurs, the DLC will immediately set the matter for hearing by this Board.

So also, during the same three year period of time, Griffith shall have no participation in any aspect of retail sales to the public from the Lost Nation Brewing premises. Griffith may not sell to or service any member of the public with an alcoholic beverage or with any nonalcoholic products sold at the Lost Nation Brewing premises.

If, at the end of the year period of time, Griffith has not been charged with, nor convicted of a criminal offense, then the restriction imposed by this Decision against his contact with the

public in the retail sale or service of alcoholic beverages or other products from the licensed premises shall be null and void.

Dated at St. Albans, Vermont, on this 17th day of MAY,
2013.

LIQUOR CONTROL BOARD

By: Thomas J. Gallagher
Thomas J. Gallagher, Member